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EST. 1908

RETIRED
DONN BENNETT

February 9, 2009

Department of Environment & Natural Resources
Minerals & Mining Program
Attn: Eric Holm, Natural Resources Project Engineer
PMB 2020, Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RECEIVED
FEB 10 2009
MINERALS & MINING PROGRAM

RE: Powertech's Petition to Intervene.

Dear Eric:

Enclosed for filing is Powertech's original Petition to Intervene in the three nominating petitions submitted by Charmaine White Face and the Defenders of the Black Hills, Deborah White Plume, and the Oglala Sioux Tribe. Thank you for your assistance.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.



Max Main

MM/ra

Enc.

cc (w/Enc.): Client

Deputy Attorney General Roxanne Giedd

**STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BOARD OF MINERALS AND ENVIRONMENT**

RECEIVED
FEB 10 2009
MINERALS & MINING PROGRAM

**IN THE MATTER OF PETITIONS TO
NOMINATE LANDS FOR
INCLUSION ON THE
PRELIMINARY LIST OF SPECIAL,
EXCEPTIONAL, CRITICAL, OR
UNIQUE LANDS SUBMITTED BY
CHARMAINE WHITE FACE AND
THE DEFENDERS OF THE BLACK
HILLS, DEBORAH WHITE PLUME,
AND THE OGLALA SIOUX TRIBE.**

**POWERTECH'S
PETITION TO INTERVENE**

COMES NOW, Powertech (USA) Inc. ("Powertech"), and pursuant to ARSD ch. 74:09:01, petitions to intervene in the three petitions to nominate lands for inclusion on the preliminary list of special, exceptional, critical, or unique lands submitted by Charmaine White Face and the Defenders of the Black Hills, Deborah White Plume, and the Oglala Sioux Tribe. Powertech states and alleges as follows:

1. Pursuant to ARSD ch. 74:29:10, Powertech previously submitted a Notice of Intent to Operate and Request for Determination of Special, Exceptional, Critical, or Unique Lands ("Notice and Request") to the Department of Environment and Natural Resources ("DENR"). DENR conducted an on-site inspection of the proposed lands to be affected, examined the previously established preliminary list of special, exceptional, critical, or unique lands, consulted with other agencies, evaluated the information provided by Powertech in the Notice and Request, and determined that the lands described in Powertech's Notice and Request did not constitute special, exceptional, critical, or unique lands ("DENR's determination"). The three nominating petitions in this matter cover all or a portion of the lands described in Powertech's Notice and Request.

2. Powertech requests that the Board of Minerals and Environment ("Board") dismiss the three nominating petitions, pursuant to ARSD § 74:29:10:14.

3. Powertech's request is based on the results of DENR's on-site inspection of the nominated lands, DENR's consultation with other agencies, DENR's evaluation of the information provided by Powertech in its Notice and Request, DENR's Inspection Report, and DENR's determination.

4. The hearing in this matter will be held pursuant to ARSD §74:29:10:13.

5. The applicable statutes and rules are SDCL ch. 45-6B and ARSD ch. 74:29:10.

DATED this 9th day of February, 2009.

BENNETT, MAIN & GUBBRUD, P.C.
Attorneys for Powertech

By: Max Main
MAX MAIN
618 State Street
Belle Fourche, SD 57717
605.892.2011

CERTIFICATE OF SERVICE

I, MAX MAIN, one of the attorneys for Powertech (USA) Inc., do hereby certify that on the 9th day of February, 2009, I caused the original of POWERTECH'S PETITION TO INTERVENE to be filed with:

Department of Environment & Natural Resources
Minerals & Mining Program
Attn: Eric Holm, Natural Resources Project Engineer
PMB 2020, Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

and a full, true and complete copy of said document to be served upon the following named persons at their last known mailing addresses, as follows:

Charmaine White Face and the
Defenders of the Black Hills
P O Box 2003
Rapid City, SD 57709-2003

Deborah White Plume
P O Box 71
Manderson, SD 57756-0071

Elizabeth Lorina
Gonzales Law Firm
Attorneys for the Oglala Sioux Tribe
522 7th Street, Suite 202
Rapid City, SD 57701

Roxanne Giedd, Esq.
Deputy Attorney General
Office of the Attorney General
1302 E. Hwy. 14, Ste. 1
Pierre, SD 57501-8501

by depositing the same in the United States Mail in Belle Fourche, South Dakota with first class postage thereon fully prepaid, in envelopes addressed as above.


Max Mair